

Testimony of U.S. Representative James P. McGovern
H.R. 4477, the Patriotic Employer Act of 2004
House Committee on Veterans Affairs
June 23, 2004

Chairman Smith, Ranking Member Evans, members of the committee, I appreciate this opportunity to testify before the House Committee on Veterans Affairs today as it considers legislation that pertains to the Uniformed Services Employment and Reemployment Rights Act (USERRA). Specifically, I am here to discuss legislation I introduced, H.R. 4477, which promotes the rights and responsibilities of employers and employees under USERRA. I am pleased that Ranking Member Evans and Representative Bradley join me as original cosponsors of this legislation.

Since September 11, 2001, over 373,000 National Guardsmen and Reservists have been placed on active duty. Not since World War II have so many National Guardsmen and Reservists been called to active duty. They and their families face many burdens in service to their country.

One burden faced by the men and women of the National Guard and Reserves is their employment status upon return from active duty. The uncertainty of their activation and period of time away from their jobs also severely affects their employers, a situation that has been compounded by extended deployments. The U.S. Chamber of Commerce has estimated that 70% of military reservists called to active-duty work in small or medium-size companies.

In an effort to assist National Guardsmen, Reservists, and their employers, the National Committee for Employer Support of the Guard and Reserve (ESGR) was established to address potential problems arising among the nation's employers. Trained ESGR employers manage to solve roughly 95% of the cases where problems have arisen

when a Reserve or Guard member returns to his or her workplace through an informal process – without the Department of Labor having to get involved.

What about the other 5 percent? According to the ESGR, many of the problems facing this five percent of cases grew out of a lack of understanding of the rights and responsibilities of employers and their returning employees. H.R. 4477 seeks to address the small percentage of employers who do not fully understand or who are unaware of USERRA.

H.R. 4477 is a simple, straightforward bill. It seeks to promote understanding between employees and employers when it comes to their rights and obligations under USERRA. H.R. 4477 would require the Department of Labor to produce a poster – similar to the Family and Medical Leave poster – for employers to post at work sites. Currently, many posters are available on the Department of Labor’s website, (<http://www.labor.gov/elaws/posters.htm>).

H.R. 4477 would not create additional paper work or burden employers with difficult Labor Department requirements. In fact, H.R. 4477 is an effort to educate employers and keep them from unknowingly breaking existing law.

As this committee is aware, many employers across the country do not know about USERRA, or they are only vaguely aware of it. By not complying with USERRA, however, employers put themselves at risk of facing Labor Department investigations. By educating employers and employees before USERRA could be violated, employers will save themselves costly litigation, potential fines, and public embarrassment. I am quite sure that this committee would agree with my belief that our small and medium-size companies do not need to put themselves at risk of a Labor Department investigation.

Let me briefly share with you how I came to introduce H.R. 4477. I was contacted by a constituent who is a member of the Massachusetts ESGR. He suggested that simply altering USERRA to require its posting would solve many of the problems that he had seen arise between employers and returning Reservists and Guardsmen. He described how many employers are not fully aware of their responsibilities under USERRA, and why many employees are afraid to exercise their rights, even though those rights are protected by USERRA. In posting USERRA and familiarizing themselves with the law, employers and employees will gain a deeper understanding of USERRA and preferably work out any potential conflicts before employees are activated.

Mr. Chairman, I would like to thank both Ranking Member Evans and Representative Bradley for being original cosponsors of this bipartisan legislation. I appreciate their support, and the dedication they have shown to the men and women of the National Guard and Reserves. In fact, Representative Bradley and I share constituents who are members of the 94th Regional Readiness Command, in particular the New Hampshire and Massachusetts Army Reservists assigned to the 94th Military Police Company headquartered in Londonderry, New Hampshire, and I know he cares deeply about the 94th and its families.

I would also like to acknowledge the work done by Geoffrey Collver of the Democratic Staff of the House Committee on Veterans Affairs. He worked closely with me and my staff in investigating this problem, and H.R. 4477 reflects his hard work.

Again, thank you for having me here today. I am grateful for the opportunity to testify on H.R. 4477, and I look forward to the Committee acting affirmatively on this bill.

